

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF MASSACHUSETTS**

Ina Steiner,
David Steiner,
Steiner Associates, LLC,
(Publisher of EcommerceBytes)

Plaintiffs,

No. 21-CV-11181-DPW

vs.

eBay, Inc.,
Progressive F.O.R.C.E. Concepts, LLC
Devin Wenig,
Steve Wymer,
James Baugh,
David Harville,
Brian Gilbert,
Stephanie Popp,
Stephanie Stockwell,
Veronica Zea,
Philip Cooke,
John and Jane DOE,

Defendants.

**DEFENDANT PHILIP COOKE’S UNOPPOSED MOTION TO FILE EXCESS PAGES,
TO FILE REPLY BRIEF, AND TO EXTEND RESPONSE DEADLINE BY ONE DAY**

Defendant Philip Cooke (“Mr. Cooke”) hereby files this unopposed motion to (a) permit Mr. Cooke to file a memorandum of law in support of his motion to dismiss in excess of 20 pages, but not to exceed 35 pages, in accordance with Local Rule 7.1(b)(4); (b) extend the date for Mr. Cooke’s response to the Complaint by one day, to October 29, 2021, consistent with the response deadline for other defendants; and (c) permit Mr. Cooke to file a reply brief, not to exceed 15 pages, within 14 days after Plaintiffs file their opposition to Mr. Cooke’s motion to dismiss, in accordance with Local Rule 7.1(b)(3). As grounds for this motion, Mr. Cooke states as follows:

1. Plaintiffs filed the Complaint on July 21, 2021. Dkt. 1. On September 14, 2021, the Court granted Mr. Cooke's assented-to motion for extension of time and set Mr. Cooke's deadline to respond to the Complaint as October 28, 2021. Dkt. 35. Since then, the Court has set the response deadline for other defendants as October 29, 2021. *See* Dkt. Nos. 59, 62, 67-68.

2. The Complaint spans 92 pages and 366 paragraphs, excluding exhibits. It alleges twelve causes of action, including violations of the civil RICO statute. Mr. Cooke intends to file a motion to dismiss the Complaint. Mr. Cooke submits that a memorandum not to exceed 35 pages is necessary in order to fully set out of the grounds for dismissal and to assist the Court in considering his motion to dismiss. The Court has granted similar motions in this case. *See* Dkt. Nos. 64, 67-68. Counsel for Mr. Cooke has conferred with counsel for the Plaintiffs, who did not oppose this request.

3. Mr. Cooke also requests that the Court extend his deadline to respond to the Complaint by one day, to October 29, 2021, so that his response date aligns with other Defendants. *See* Dkt. Nos. 59, 62. This minimal adjustment to the briefing schedule is likely to bring additional administrative clarity and efficiency to the docket and further proceedings. Counsel for Mr. Cooke has conferred with counsel for the Plaintiffs, who did not oppose this request.

4. Mr. Cooke anticipates that Plaintiffs will oppose his motion to dismiss, and requests leave to file a reply brief. Mr. Cooke submits that a reply brief will assist the Court in deciding his motion considering the numerous issues likely to be addressed in his motion to dismiss and Plaintiffs' response. Accordingly, Mr. Cooke seeks leave to file a reply brief of not more than 15 pages, and not more than 14 days following the filing of Plaintiffs' opposition. Counsel for Mr. Cooke has conferred with counsel for the Plaintiffs, who did not oppose this request.

5. Counsel for Mr. Cooke has also conferred with counsel for the other defendants in this matter and they do not oppose this motion.

WHEREFORE, Mr. Cooke requests that the Court grant this Motion and (a) permit him to file a memorandum in support of his motion to dismiss, which will not exceed more than 35 pages; (b) extend Mr. Cooke's deadline to respond to the Complaint by one day, to October 29, 2021; and (c) permit Mr. Cooke to file a reply brief of not more than 15 pages within 14 days after Plaintiffs file their opposition to his motion to dismiss.

Dated: October 22, 2021

Respectfully submitted,

PHILIP COOKE

By his attorneys,

/s/ Christina N. Lindberg
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LOCAL RULE 7.1 CERTIFICATION

I, Christina N. Lindberg, counsel for Mr. Cooke, hereby certify that, in accordance with Local Rule 7.1(a)(2), counsel for Mr. Cooke conferred with counsel for Plaintiffs on October 21, 2021, who do not oppose the relief requested in this motion. I further certify that I have also conferred with counsel of record for the remaining parties in this matter and received no objection to the relief requested herein.

/s/ Christina N. Lindberg
Christina N. Lindberg

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed through the ECF system on October 22, 2021 and will be sent electronically to the registered participants on the Notice of Electronic Filing and paper copies will be sent to any non-registered participants.

/s/ Christina N. Lindberg
Christina N. Lindberg